

April 29, 1975

SENATOR KENNEDY: Mr. President, members. I did request Attorney General's opinion on LB 243, there are two problems that are unconstitutional in this bill. I would hope that this body would ask to have this bill brought back and look at the changes that might be made on LB243 to make them constitutional. The Attorney General's opinion is printed in the Journal and you can look at it. I would read that Sections 3 of LB 243 is probably unconstitutional because it provides for a delegation for an executive office in the state of Nebraska, and his authority granted in ARTICLE four, section one of the State Constitution and appoint and remove all subsequent employees from their respective departments. This constitutional provision does not provide for any delegation of this power to a private person as would be in the case of the contract binding arbitration. Therefore LB243 would be in violation of article 4 section 1, of the state constitution. Under section five of LB 243 it is probably unconstitutional because it would be in conflict with section 48-837 of the Nebraska Constitution which presently provides that the Legislature must approve all agreements entering into by an agency of the state of the Nebraska would any employee bargaining unit. Section 5 of LB243 provides that any agreement entered into by public employee or employee union shall be binding on the part of parties subject to such an agreement. This appears to be in direct conflict with the provisions which provides legislative approval of the agreements and since this provision was not repealed in LB 243, thus LB 243 would be in violation of article 3, section 14 of the constitution which provides and no law shall be amended unless such act contains section or sections as amended and the section so amended shall be appealed. In visiting with the Attorney General and in receiving this written opinion I would request that we do bring back LB 243 and see if we can correct it and make it constitutional. Before it is in the Governors office. I did visit with him last night. It is not signed and we can ask for it to be brought back and corrected.

PRESIDENT: Senator Frank Lewis.

SENATOR F. LEWIS: Now Mr. Chairman, this is my bill and I'm sorry that Senator Kennedy didn't choose to visit with me about it before this move. The Governor also didn't have the opportunity or didn't take the opportunity or did not desire to discuss the bill with me, that is unusual procedure I would suspect. I don't believe that I have operated that way but maybe that is the precedent. If there is a question with the bill certainly I would want to do something about it. I would ask the body to lay over this motion for a day until I have the opportunity to look at it and pursue the decision if we may do that Mr. President, what is the time? Whats the time problem Mr. Clerk? I have to May 1st to get it back?

PRESIDENT: Yes, that's not just getting it back, he either has to sign it or veto it on that day.